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U.S. DISTRICT COURT
CENTRAL DISTRICT OF CALIF.
JAN 28 2009

UNITED STATES DISTRICT COURT
FOR THE CENTRAL DISTRICT OF CALIFORNIA
SOUTHERN DIVISION

October 2008 Grand Jury

UNITED STATES OF AMERICA,) SA CR 07-00021(A) -JVS
)
Plaintiff,) F I R S T
) S U P E R S E D I N G
v.) I N D I C T M E N T
)

ALEXANDER ZINOVY RIVKIN,) [18 U.S.C. § 371: Conspiracy;
RAMIN SARSHAD,) 18 U.S.C. § 1347: Health Care
MICHAEL WAYNE CHAPMAN, and) Fraud; 18 U.S.C. § 1341: Mail
TRUC HUY DAO,) Fraud; 18 U.S.C. § 1343: Wire
) Fraud; 18 U.S.C. § 2: Aiding
Defendants.) and Abetting/Causing an Act
) to be Done]
)

The Grand Jury charges:

COUNT ONE

[18 U.S.C. § 371]

A. INTRODUCTION

At all times relevant to this Indictment:

1. Paul Arnold Lessler ("Dr. Lessler"), defendant

ALEXANDER ZINOVY RIVKIN ("DR. RIVKIN"), Gershon Walter Hepner
("Dr. Hepner"), Xinming Fu ("Dr. Fu"), defendant RAMIN SARSHAD
("DR. SARSHAD"), Aginah M. DeBerry ("Dr. DeBerry"), defendant
MICHAEL WAYNE CHAPMAN ("DR. CHAPMAN"), and defendant TRUC HUY DAO

1 ("DR. DAO") were physicians enrolled as providers with Medicare,
2 a federal health insurance program operated by the United States
3 Department of Health and Human Services.

4 2. Dr. Lessler further owned and operated a group medical
5 practice called University Pain Specialists Medical Group, Inc.,
6 also known as, University Consultants Medical Group, Inc.
7 ("University Pain Specialists"), which was an enrolled provider
8 with Medicare. DR. RIVKIN, Dr. Hepner, DR. SARSHAD, and DR. DAO
9 were physicians in Dr. Lessler's University Pain Specialists
10 medical group.

11 3. Dr. DeBerry further operated her medical practice under
12 the name Four Points Family Medical Center, Inc.

13 4. A co-conspirator owned and operated a company called HT
14 Medical Billing Service ("HT Medical"), which provided medical
15 billing services for Dr. Lessler, DR. RIVKIN, Dr. Hepner, Dr. Fu,
16 DR. SARSHAD, Dr. DeBerry, DR. CHAPMAN, and DR. DAO. This co-
17 conspirator further owned and operated a company called
18 Professional and Respiratory Care Services ("PRCS"), which
19 provided respiratory therapists and equipment to Dr. Lessler, DR.
20 RIVKIN, Dr. Hepner, Dr. Fu, DR. SARSHAD, Dr. DeBerry, DR.
21 CHAPMAN, and DR. DAO.

22 5. Glenn Garcia Madrid ("Madrid"), Levi Raichik
23 ("Raichik"), and Schmucl Fogelman ("Fogelman") were marketers who
24 were paid illegal kickbacks by Dr. Lessler, DR. RIVKIN, Dr.
25 Hepner, Dr. Fu, DR. SARSHAD, Dr. DeBerry, DR. CHAPMAN, and DR.
26 DAO to recruit elderly, infirm, and mentally ill residents at
27 board and care facilities ("B&Cs") for respiratory treatments.
28 Madrid, Raichik, and Fogelman paid illegal kickbacks to the

1 owners and administrators of the B&Cs for referring the elderly,
2 infirm, and mentally ill residents of those B&Cs for respiratory
3 treatments. Madrid, Raichik, and Fogelman further provided and
4 caused to be provided kickbacks, such as soda, candy, and donuts,
5 to the elderly, infirm, and mentally ill residents of the B&Cs in
6 order to entice them to undergo the respiratory treatments.

7 6. Raichik and Fogelman further owned and operated
8 companies called Granada Care, Inc. dba Active Adult Day Health
9 Care and Albany Consulting & Marketing to receive the illegal
10 kickbacks.

11 7. Barbara Sue Thrash ("Thrash") was an administrator of a
12 B&C, Grandview Retirement Residence and Grandview Towers
13 ("Grandview"), who received illegal kickbacks from DR. RIVKIN,
14 DR. SARSHAD, Dr. DeBerry, University Pain Specialists, and
15 others, for referring Grandview's elderly, infirm, and mentally
16 ill residents for respiratory treatments.

17 8. Thrash further owned a company called BT Enterprises to
18 receive the illegal kickbacks.

19 9. Claims can be submitted to Medicare by mail and
20 electronically. Medicare sends money representing payment for
21 claims through the mail and via electronic funds transfers.

22 B. OBJECT OF THE CONSPIRACY

23 10. Beginning in or around 2000, and continuing until in or
24 around 2006, in Orange County and Los Angeles County, within the
25 Central District of California, and elsewhere, Dr. Lessler, DR.
26 RIVKIN, Dr. Hepner, Dr. Fu, DR. SARSHAD, Dr. DeBerry, DR.
27 CHAPMAN, DR. DAO, Madrid, Raichik, Fogelman, and Thrash, along
28 with the owner of HT Medical and PRCS, as well as others known

1 and unknown to the Grand Jury, conspired and agreed with each
2 other to knowingly and willfully offer, pay, solicit, and receive
3 illegal kickbacks, in violation of 42 U.S.C. §§ 1320a-7b(b)(1)(A)
4 and 1320a-7b(b)(2)(A), to commit health care fraud, in violation
5 of 18 U.S.C. § 1347, to commit mail fraud, in violation of 18
6 U.S.C. § 1341, and to commit wire fraud, in violation of 18
7 U.S.C. § 1343.

8 C. MEANS BY WHICH THE OBJECT OF THE CONSPIRACY WAS TO BE
9 ACCOMPLISHED

10 11. The object of the conspiracy was to be accomplished in
11 substance as follows:

12 a. Dr. Lessler, DR. RIVKIN, Dr. Hepner, Dr. Fu, DR.
13 SARSHAD, Dr. DeBerry, DR. CHAPMAN, and DR. DAO would pay
14 illegal kickbacks to Madrid, Raichik, Fogelman, and Thrash
15 to recruit elderly, infirm, and mentally ill residents of
16 B&Cs for respiratory treatments;

17 b. Madrid, Raichik, and Fogelman would recruit
18 elderly, infirm, and mentally ill residents of B&Cs by
19 paying illegal kickbacks to the owners and administrators of
20 the B&Cs, and cause illegal kickbacks to be given to the B&C
21 residents to undergo the respiratory treatments;

22 c. The subject respiratory treatments would include,
23 among others, aerosol inhalations for sputum mobilization
24 (CPT Code 94665) and manipulation of the chest wall to
25 facilitate lung function (CPT Code 94668) (collectively the
26 "Respiratory Treatments");

27 d. Dr. Lessler, DR. RIVKIN, Dr. Hepner, Dr. Fu, DR.
28 SARSHAD, Dr. DeBerry, DR. CHAPMAN, and DR. DAO would bill

1 Medicare for daily and almost daily Respiratory Treatments
2 on the elderly, infirm, and mentally ill residents of the
3 B&Cs under the false pretense that Dr. Lessler, DR. RIVKIN,
4 Dr. Hepner, Dr. Fu, DR. SARSHAD, Dr. DeBerry, DR. CHAPMAN,
5 and DR. DAO were rendering and directly supervising the
6 Respiratory Treatments when, in fact, unsupervised
7 respiratory therapists were providing the treatments, in
8 violation of Medicare's coverage requirements; and

9 e. Dr. Lessler, DR. RIVKIN, Dr. Hepner, Dr. Fu, DR.
10 SARSHAD, Dr. DeBerry, DR. CHAPMAN, and DR. DAO would bill
11 Medicare for Respiratory Treatments under the false pretense
12 that Dr. Lessler, DR. RIVKIN, Dr. Hepner, Dr. Fu, DR.
13 SARSHAD, Dr. DeBerry, DR. CHAPMAN, and DR. DAO were
14 providing those medical services to patients at the
15 respective doctor's medical offices when, in fact, the
16 treatments were provided at the B&Cs, in violation of
17 Medicare's coverage requirements.

18 D. OVERT ACTS

19 12. In furtherance of the conspiracy and to accomplish the
20 object of the conspiracy, Dr. Lessler, DR. RIVKIN, Dr. Hepner,
21 Dr. Fu, DR. SARSHAD, Dr. DeBerry, DR. CHAPMAN, DR. DAO, Madrid,
22 Raichik, Fogelman, Thrash, and other co-conspirators committed
23 various overt acts within the Central District of California, and
24 elsewhere, including but not limited to, the following:

25 OVERT ACT NO. 1: On or about 10/15/03, Dr. Lessler and
26 Madrid caused to be submitted to Medicare a fraudulent claim
27 for Respiratory Treatments for patient GP in the amount of
28 \$50.

1 OVERT ACT NO. 2: On or about 10/15/03, Dr. Lessler and
2 Madrid caused to be submitted to Medicare a fraudulent claim
3 for Respiratory Treatments for patient JA in the amount of
4 \$50.

5 OVERT ACT NO. 3: On or about 10/15/03, Dr. Lessler and
6 Madrid caused to be submitted to Medicare a fraudulent claim
7 for Respiratory Treatments for patient RD in the amount of
8 \$50.

9 OVERT ACT NO. 4: On or about 10/15/03, Dr. Lessler and
10 Madrid caused to be submitted to Medicare a fraudulent claim
11 for Respiratory Treatments for patient BD in the amount of
12 \$50.

13 OVERT ACT NO. 5: On or about 10/15/03, Dr. Lessler and
14 Madrid caused to be submitted to Medicare a fraudulent claim
15 for Respiratory Treatments for patient RG in the amount of
16 \$50.

17 OVERT ACT NO. 6: On or about 3/27/03, Dr. Lessler and
18 Madrid caused to be submitted to Medicare a fraudulent claim
19 for Respiratory Treatments for patient RC in the amount of
20 \$50.

21 OVERT ACT NO. 7: On or about 5/26/03, Dr. Lessler and
22 Madrid caused to be submitted to Medicare a fraudulent claim
23 for Respiratory Treatments for patient RC in the amount of
24 \$50.

25 OVERT ACT NO. 8: On or about 3/7/04, Dr. Lessler and
26 Madrid caused to be submitted to Medicare a fraudulent claim
27 for Respiratory Treatments for patient DB in the amount of
28 \$50.

1 OVERT ACT NO. 9: On or about 12/31/02, Dr. Lessler and
2 Madrid caused to be submitted to Medicare a fraudulent claim
3 for Respiratory Treatments for patient MG in the amount of
4 \$50.

5 OVERT ACT NO. 10: On or about 3/8/04, Dr. Lessler and
6 Madrid caused to be submitted to Medicare a fraudulent claim
7 for Respiratory Treatments for patient JB in the amount of
8 \$50.

9 OVERT ACT NO. 11: On or about 9/1/03, DR. RIVKIN and
10 Thrash caused to be submitted to Medicare a fraudulent claim
11 for Respiratory Treatments for patient RL in the amount of
12 \$50.

13 OVERT ACT NO. 12: On or about 9/1/03, DR. RIVKIN and
14 Thrash caused to be submitted to Medicare a fraudulent claim
15 for Respiratory Treatments for patient PB in the amount of
16 \$50.

17 OVERT ACT NO. 13: On or about 9/1/03, DR. RIVKIN and
18 Thrash caused to be submitted to Medicare a fraudulent claim
19 for Respiratory Treatments for patient GK in the amount of
20 \$50.

21 OVERT ACT NO. 14: On or about 9/1/03, DR. RIVKIN and
22 Thrash caused to be submitted to Medicare a fraudulent claim
23 for Respiratory Treatments for patient SS in the amount of
24 \$50.

25 OVERT ACT NO. 15: On or about 9/1/03, DR. RIVKIN and
26 Thrash caused to be submitted to Medicare a fraudulent claim
27 for Respiratory Treatments for patient EK in the amount of
28 \$50.

1 OVERT ACT NO. 16: On or about 9/3/03, DR. RIVKIN and
2 Thrash caused to be submitted to Medicare a fraudulent claim
3 for Respiratory Treatments for patient RL in the amount of
4 \$50.

5 OVERT ACT NO. 17: On or about 6/26/03, DR. RIVKIN and
6 Thrash caused to be submitted to Medicare a fraudulent claim
7 for Respiratory Treatments for patient DD in the amount of
8 \$50.

9 OVERT ACT NO. 18: On or about 6/16/03, DR. RIVKIN and
10 Thrash caused to be submitted to Medicare a fraudulent claim
11 for Respiratory Treatments for patient YD in the amount of
12 \$50.

13 OVERT ACT NO. 19: On or about 5/12/03, DR. RIVKIN and
14 Thrash caused to be submitted to Medicare a fraudulent claim
15 for Respiratory Treatments for patient FN in the amount of
16 \$50.

17 OVERT ACT NO. 20: On or about 9/15/03, DR. RIVKIN and
18 Thrash caused to be submitted to Medicare a fraudulent claim
19 for Respiratory Treatments for patient GP in the amount of
20 \$50.

21 OVERT ACT NO. 21: On or about 8/12/04, Dr. Hepner,
22 Raichik, and Fogelman caused to be submitted to Medicare a
23 fraudulent claim for Respiratory Treatments for patient PB
24 in the amount of \$50.

25 OVERT ACT NO. 22: On or about 8/12/04, Dr. Hepner,
26 Raichik, and Fogelman caused to be submitted to Medicare a
27 fraudulent claim for Respiratory Treatments for patient JF
28 in the amount of \$50.

1 OVERT ACT NO. 23: On or about 7/28/04, Dr. Hepner,
2 Raichik, and Fogelman caused to be submitted to Medicare a
3 fraudulent claim for Respiratory Treatments for patient DM
4 in the amount of \$50.

5 OVERT ACT NO. 24: On or about 7/28/04, Dr. Hepner,
6 Raichik, and Fogelman caused to be submitted to Medicare a
7 fraudulent claim for Respiratory Treatments for patient KJ
8 in the amount of \$50.

9 OVERT ACT NO. 25: On or about 7/28/04, Dr. Hepner,
10 Raichik, and Fogelman caused to be submitted to Medicare a
11 fraudulent claim for Respiratory Treatments for patient BC
12 in the amount of \$50.

13 OVERT ACT NO. 26: On or about 9/5/03, Dr. Hepner,
14 Raichik, and Fogelman caused to be submitted to Medicare a
15 fraudulent claim for Respiratory Treatments for patient PB
16 in the amount of \$50.

17 OVERT ACT NO. 27: On or about 7/9/03, Dr. Hepner,
18 Raichik, and Fogelman caused to be submitted to Medicare a
19 fraudulent claim for Respiratory Treatments for patient RD
20 in the amount of \$50.

21 OVERT ACT NO. 28: On or about 9/12/03, Dr. Hepner and
22 Madrid caused to be submitted to Medicare a fraudulent claim
23 for Respiratory Treatments for patient SF in the amount of
24 \$50.

25 OVERT ACT NO. 29: On or about 12/2/04, Dr. Hepner,
26 Raichik, and Fogelman caused to be submitted to Medicare a
27 fraudulent claim for Respiratory Treatments for patient KJ
28 in the amount of \$50.

1 OVERT ACT NO. 30: On or about 7/31/03, Dr. Hepner and
2 Madrid caused to be submitted to Medicare a fraudulent claim
3 for Respiratory Treatments for patient JK in the amount of
4 \$50.

5 OVERT ACT NO. 31: On or about 10/18/02, Dr. Fu, Madrid,
6 Raichik, and Fogelman caused to be submitted to Medicare a
7 fraudulent claim for Respiratory Treatments for patient BB
8 in the amount of \$50.

9 OVERT ACT NO. 32: On or about 10/18/02, Dr. Fu, Madrid,
10 Raichik, and Fogelman caused to be submitted to Medicare a
11 fraudulent claim for Respiratory Treatments for patient PE
12 in the amount of \$50.

13 OVERT ACT NO. 33: On or about 10/18/02, Dr. Fu, Madrid,
14 Raichik, and Fogelman caused to be submitted to Medicare a
15 fraudulent claim for Respiratory Treatments for patient XB
16 in the amount of \$50.

17 OVERT ACT NO. 34: On or about 10/16/02, Dr. Fu, Madrid,
18 Raichik, and Fogelman caused to be submitted to Medicare a
19 fraudulent claim for Respiratory Treatments for patient RM
20 in the amount of \$50.

21 OVERT ACT NO. 35: On or about 11/5/02, Dr. Fu, Madrid,
22 Raichik, and Fogelman caused to be submitted to Medicare a
23 fraudulent claim for Respiratory Treatments for patient JF
24 in the amount of \$50.

25 OVERT ACT NO. 36: On or about 3/31/03, Dr. Fu and
26 Madrid caused to be submitted to Medicare a fraudulent claim
27 for Respiratory Treatments for patient RB in the amount of
28 \$50.

1 OVERT ACT NO. 37: On or about 3/21/03, Dr. Fu, Raichik,
2 and Fogelman caused to be submitted to Medicare a fraudulent
3 claim for Respiratory Treatments for patient CB in the
4 amount of \$50.

5 OVERT ACT NO. 38: On or about 3/25/03, Dr. Fu, Raichik,
6 and Fogelman caused to be submitted to Medicare a fraudulent
7 claim for Respiratory Treatments for patient CB in the
8 amount of \$50.

9 OVERT ACT NO. 39: On or about 1/7/03, Dr. Fu, Raichik,
10 and Fogelman caused to be submitted to Medicare a fraudulent
11 claim for Respiratory Treatments for patient GG in the
12 amount of \$50.

13 OVERT ACT NO. 40: On or about 1/3/03, Dr. DeBerry,
14 Raichik, and Fogelman caused to be submitted to Medicare a
15 fraudulent claim for Respiratory Treatments for patient CB
16 in the amount of \$50.

17 OVERT ACT NO. 41: On or about 1/9/03, Dr. DeBerry,
18 Raichik, and Fogelman caused to be submitted to Medicare a
19 fraudulent claim for Respiratory Treatments for patient CB
20 in the amount of \$50.

21 OVERT ACT NO. 42: On or about 1/4/03, Dr. DeBerry,
22 Raichik, and Fogelman caused to be submitted to Medicare a
23 fraudulent claim for Respiratory Treatments for patient SR
24 in the amount of \$50.

25 OVERT ACT NO. 43: On or about 2/7/03, Dr. DeBerry,
26 Raichik, and Fogelman caused to be submitted to Medicare a
27 fraudulent claim for Respiratory Treatments for patient SR
28 in the amount of \$50.

1 OVERT ACT NO. 44: On or about 12/27/02, Dr. DeBerry,
2 Raichik, and Fogelman caused to be submitted to Medicare a
3 fraudulent claim for Respiratory Treatments for patient RS
4 in the amount of \$50.

5 OVERT ACT NO. 45: On or about 12/27/02, Dr. DeBerry,
6 Raichik, and Fogelman caused to be submitted to Medicare a
7 fraudulent claim for Respiratory Treatments for patient RS
8 in the amount of \$50.

9 OVERT ACT NO. 46: On or about 4/18/03, Dr. DeBerry and
10 Thrash caused to be submitted to Medicare a fraudulent claim
11 for Respiratory Treatments for patient WH in the amount of
12 \$50.

13 OVERT ACT NO. 47: On or about 2/10/03, Dr. DeBerry and
14 Thrash caused to be submitted to Medicare a fraudulent claim
15 for Respiratory Treatments for patient JF in the amount of
16 \$50.

17 OVERT ACT NO. 48: On or about 1/10/03, Dr. DeBerry and
18 Thrash caused to be submitted to Medicare a fraudulent claim
19 for Respiratory Treatments for patient JW in the amount of
20 \$50.

21 OVERT ACT NO. 49: On or about 12/29/03, DR. CHAPMAN and
22 Madrid caused to be submitted to Medicare a fraudulent claim
23 for Respiratory Treatments for patient WH in the amount of
24 \$50.

25 OVERT ACT NO. 50: On or about 12/29/03, DR. CHAPMAN and
26 Madrid caused to be submitted to Medicare a fraudulent claim
27 for Respiratory Treatments for patient JW in the amount of
28 \$50.

1 OVERT ACT NO. 51: On or about 12/29/03, DR. CHAPMAN and
2 Madrid caused to be submitted to Medicare a fraudulent claim
3 for Respiratory Treatments for patient HA in the amount of
4 \$50.

5 OVERT ACT NO. 52: On or about 12/29/03, DR. CHAPMAN,
6 Raichik, and Fogelman caused to be submitted to Medicare a
7 fraudulent claim for Respiratory Treatments for patient JN
8 in the amount of \$50.

9 OVERT ACT NO. 53: On or about 12/29/03, DR. CHAPMAN,
10 Raichik, and Fogelman caused to be submitted to Medicare a
11 fraudulent claim for Respiratory Treatments for patient KD
12 in the amount of \$50.

13 OVERT ACT NO. 54: On or about 6/27/03, DR. CHAPMAN,
14 Madrid, Raichik, and Fogelman caused to be submitted to
15 Medicare a fraudulent claim for Respiratory Treatments for
16 patient MG in the amount of \$50.

17 OVERT ACT NO. 55: On or about 4/8/03, DR. CHAPMAN,
18 Madrid, Raichik, and Fogelman caused to be submitted to
19 Medicare a fraudulent claim for Respiratory Treatments for
20 patient AC in the amount of \$50.

21 OVERT ACT NO. 56: On or about 3/31/03, DR. CHAPMAN,
22 Madrid, Raichik, and Fogelman caused to be submitted to
23 Medicare a fraudulent claim for Respiratory Treatments for
24 patient JS in the amount of \$50.

25 OVERT ACT NO. 57: On or about 4/22/03, DR. CHAPMAN,
26 Raichik, and Fogelman caused to be submitted to Medicare a
27 fraudulent claim for Respiratory Treatments for patient JT
28 in the amount of \$50.

1 OVERT ACT NO. 58: On or about 6/20/03, DR. CHAPMAN,
2 Raichik, and Fogelman caused to be submitted to Medicare a
3 fraudulent claim for Respiratory Treatments for patient FD
4 in the amount of \$50.

5 OVERT ACT NO. 59: On or about 9/22/03, DR. DAO,
6 Raichik, and Fogelman caused to be submitted to Medicare a
7 fraudulent claim for Respiratory Treatments for patient PR
8 in the amount of \$50.

9 OVERT ACT NO. 60: On or about 9/24/03, DR. DAO,
10 Raichik, and Fogelman caused to be submitted to Medicare a
11 fraudulent claim for Respiratory Treatments for patient PR
12 in the amount of \$50.

13 OVERT ACT NO. 61: On or about 9/25/03, DR. DAO,
14 Raichik, and Fogelman caused to be submitted to Medicare a
15 fraudulent claim for Respiratory Treatments for patient VR
16 in the amount of \$50.

17 OVERT ACT NO. 62: On or about 10/3/03, DR. DAO,
18 Raichik, and Fogelman caused to be submitted to Medicare a
19 fraudulent claim for Respiratory Treatments for patient VR
20 in the amount of \$50.

21 OVERT ACT NO. 63: On or about 9/22/03, DR. DAO,
22 Raichik, and Fogelman caused to be submitted to Medicare a
23 fraudulent claim for Respiratory Treatments for patient CS
24 in the amount of \$50.

25 OVERT ACT NO. 64: On or about 10/10/03, DR. DAO,
26 Raichik, and Fogelman caused to be submitted to Medicare a
27 fraudulent claim for Respiratory Treatments for patient CS
28 in the amount of \$50.

1 OVERT ACT NO. 65: On or about 11/26/03, DR. DAO and
2 Madrid caused to be submitted to Medicare a fraudulent claim
3 for Respiratory Treatments for patient RB in the amount of
4 \$50.

5 OVERT ACT NO. 66: On or about 3/8/04, DR. SARSHAD and
6 Thrash caused to be submitted to Medicare a fraudulent claim
7 for Respiratory Treatments for patient LK in the amount of
8 \$50.

9 OVERT ACT NO. 67: On or about 9/29/03, DR. SARSHAD and
10 Thrash caused to be submitted to Medicare a fraudulent claim
11 for Respiratory Treatments for patient SM in the amount of
12 \$50.

13 OVERT ACT NO. 68: On or about 4/25/03, University Pain
14 Specialists paid Madrid \$5,393.82, which represented
15 approximately 30% of what Dr. Lessler received from Medicare
16 on certain claims for Respiratory Treatments for patients
17 recruited by Madrid.

18 OVERT ACT NO. 69: On or about 4/6/04, University Pain
19 Specialists paid Madrid \$5,058.36, which represented
20 approximately 30% of what Dr. Lessler received from Medicare
21 on certain claims for Respiratory Treatments for patients
22 recruited by Madrid.

23 OVERT ACT NO. 70: On or about 10/1/03, DR. RIVKIN paid
24 Thrash \$3,000, which represented payment for referring
25 Grandview's elderly, infirm, and mentally ill residents for
26 Respiratory Treatments.

27 OVERT ACT NO. 71: On or about 10/20/03, DR. RIVKIN paid
28 Thrash \$3,000, which represented payment for referring

1 Grandview's elderly, infirm, and mentally ill residents for
2 Respiratory Treatments.

3 OVERT ACT NO. 72: On or about 4/16/03, Dr. Fu paid
4 Raichik and Fogelman \$1,503.81, which represented
5 approximately 30% of what Dr. Fu had received from Medicare
6 on certain claims for Respiratory Treatments for patients
7 recruited by Raichik and Fogelman.

8 OVERT ACT NO. 73: On or about 4/24/03, Dr. Fu paid
9 Madrid \$801.32, which represented approximately 30% of what
10 Dr. Fu had received from Medicare on certain claims for
11 Respiratory Treatments for patients recruited by Madrid.

12 OVERT ACT NO. 74: On or about 1/16/03, Dr. DeBerry paid
13 Raichik and Fogelman \$532.14, which represented
14 approximately 30% of what Dr. DeBerry had received from
15 Medicare on certain claims for Respiratory Treatments for
16 patients recruited by Raichik and Fogelman.

17 OVERT ACT NO. 75: On or about 1/22/03, Dr. DeBerry paid
18 Raichik and Fogelman \$1,763.60, which represented
19 approximately 30% of what Dr. DeBerry had received from
20 Medicare on certain claims for Respiratory Treatments for
21 patients recruited by Raichik and Fogelman.

22 OVERT ACT NO. 76: On or about 4/29/03, DR. CHAPMAN paid
23 Madrid \$1,884.04, which represented approximately 30% of
24 what DR. CHAPMAN had received from Medicare on certain
25 claims for Respiratory Treatments for patients recruited by
26 Madrid.

27 OVERT ACT NO. 77: On or about 5/14/03, DR. CHAPMAN paid
28 Raichik and Fogelman \$1,584.33, which represented

1 approximately 30% of what DR. CHAPMAN had received from
2 Medicare on certain claims for Respiratory Treatments for
3 patients recruited by Raichik and Fogelman.

4 OVERT ACT NO. 78: On or about 10/27/03, DR. DAO paid
5 Raichik and Fogelman \$1,097.37, which represented
6 approximately 30% of what DR. DAO had received from Medicare
7 on certain claims for Respiratory Treatments for patients
8 recruited by Raichik and Fogelman.

9 OVERT ACT NO. 79: On or about 12/19/03, DR. DAO paid
10 Madrid \$1,439.51, which represented approximately 30% of
11 what DR. DAO had received from Medicare on certain claims
12 for Respiratory Treatments for patients recruited by Madrid.

13 OVERT ACT NO. 80: In or around 2003 and 2004, Madrid
14 paid cash to the owner and administrator of
15 Westminster/Regal Manor for referring elderly, infirm, and
16 mentally ill residents of that B&C for Respiratory
17 Treatments.

18 OVERT ACT NO. 81: In or around 2005, Raichik and
19 Fogelman paid cash to the owner and administrator of Ramona
20 Guest Home B&C for referring elderly, infirm, and mentally
21 ill residents of that B&C for Respiratory Treatments.

22 OVERT ACT NO. 82: In or around 2002-2006, Thrash called
23 PRCS to complain about not getting paid and to request
24 payment for referring Grandview's elderly, infirm, and
25 mentally ill residents for Respiratory Treatments.

26 OVERT ACT NO. 83: On or about 8/23/04, DR. RIVKIN
27 caused Medicare to deposit in the U.S. Mail a check relating
28 to a fraudulent claim for Respiratory Treatments for patient

1 RC.

2 OVERT ACT NO. 84: On or about 2/16/05, DR. RIVKIN
3 caused Medicare to deposit in the U.S. Mail a check relating
4 to a fraudulent claim for Respiratory Treatments for patient
5 AL.

6 OVERT ACT NO. 85: On or about 2/16/05, DR. RIVKIN
7 caused Medicare to deposit in the U.S. Mail a check relating
8 to a fraudulent claim for Respiratory Treatments for patient
9 FW.

10 OVERT ACT NO. 86: On or about 2/13/04, DR. CHAPMAN
11 caused Medicare to transfer via wire funds relating to a
12 fraudulent claim for Respiratory Treatments for patient BH.

13 OVERT ACT NO. 87: On or about 3/8/04, DR. DAO caused
14 Medicare to transfer via wire funds relating to a fraudulent
15 claim for Respiratory Treatments for patient AA.

16 OVERT ACT NO. 88: On or about 3/29/04, DR. DAO caused
17 Medicare to transfer via wire funds relating to a fraudulent
18 claim for Respiratory Treatments for patient VR.

19 OVERT ACT NO. 89: On or about 3/1/05, DR. SARSHAD
20 caused Medicare to transfer via wire funds relating to a
21 fraudulent claim for Respiratory Treatments for patient LJ.
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COUNTS TWO THROUGH SIXTY-EIGHT

[18 U.S.C. §§ 1347 and 2]

13. Paragraphs one through nine of this Indictment are incorporated herein by this reference.

A. THE FRAUDULENT SCHEME

14. Beginning in or around 2000, and continuing until in or around 2006, in Orange County and Los Angeles County, within the Central District of California, and elsewhere, Dr. Lessler, DR. RIVKIN, Dr. Hepner, Dr. Fu, DR. SARSHAD, Dr. DeBerry, DR. CHAPMAN, DR. DAO, Madrid, Raichik, Fogelman, and Thrash, along with the owner of HT Medical and PRCS, as well as others known and unknown to the Grand Jury, aiding and abetting each other, knowingly, willfully, and with the intent to defraud, devised, executed, and participated in a scheme to defraud Medicare and Medi-Cal, and to obtain money owned and under the control of Medicare and Medi-Cal, by means of materially false and fraudulent pretenses, representations, and promises, and the non-disclosure and concealment of material facts, in connection with the delivery of and payment for health care items, benefits, and services.

B. MEANS TO ACCOMPLICE THE FRAUDULENT SCHEME

15. The scheme was designed to operate, and did operate, as alleged in paragraph 11 of this Indictment, which paragraph is incorporated herein by this reference.

16. In carrying out the fraudulent scheme, acting with intent to defraud and deceive, Dr. Lessler, DR. RIVKIN, Dr. Hepner, Dr. Fu, DR. SARSHAD, Dr. DeBerry, DR. CHAPMAN, DR. DAO and other co-conspirators, aiding and abetting each other, caused

1 false information and false statements to be communicated, and
2 material information to be concealed and omitted, in billings to
3 Medicare, including, without limitation, the following:

4 a. concealing and omitting that the residents of the
5 B&Cs were being recruited for Respiratory Treatments with
6 the payment of illegal kickbacks;

7 b. falsely representing that Dr. Lessler, DR. RIVKIN,
8 Dr. Hepner, Dr. Fu, DR. SARSHAD, Dr. DeBerry, DR. CHAPMAN,
9 and DR. DAO were providing and directly supervising the
10 Respiratory Treatments; and

11 c. falsely representing that the Respiratory
12 Treatments were being performed at the respective medical
13 offices of Dr. Lessler, DR. RIVKIN, Dr. Hepner, Dr. Fu, DR.
14 SARSHAD, Dr. DeBerry, DR. CHAPMAN, and DR. DAO.

15 17. In carrying out the fraud scheme, acting with intent to
16 defraud and deceive, Dr. Lessler, DR. RIVKIN, Dr. Hepner, Dr. Fu,
17 DR. SARSHAD, Dr. DeBerry, DR. CHAPMAN, DR. DAO, Madrid, Raichik,
18 Fogelman, Thrash, and other co-conspirators knowingly and
19 willfully caused, aided and abetted, and engaged in fraudulent
20 and deceptive acts, practices, and devices including, without
21 limitation, the following:

22 a. Dr. Lessler, DR. RIVKIN, Dr. Hepner, Dr. Fu, DR.
23 SARSHAD, Dr. DeBerry, DR. CHAPMAN, and DR. DAO directed and
24 caused to be paid illegal kickbacks to marketers, such as
25 Madrid, Raichik, Fogelman, and B&C owners and
26 administrators, such as Thrash, to recruit elderly, infirm,
27 and mentally ill residents of B&Cs for Respiratory
28 Treatments;

1 b. Marketers, such as Madrid, Raichik, and Fogelman,
2 paid illegal kickbacks to B&C owners and administrators for
3 referring elderly, infirm, and mentally ill residents of the
4 B&Cs for Respiratory Treatments, caused illegal kickbacks to
5 be given to the B&C residents to undergo the respiratory
6 treatments, and, along with B&C owners and administrators
7 like Thrash, received illegal kickbacks for recruiting and
8 referring elderly, infirm, and mentally ill residents of
9 B&Cs for Respiratory Treatments;

10 c. Dr. Lessler, DR. RIVKIN, Dr. Hepner, Dr. Fu, DR.
11 SARSHAD, Dr. DeBerry, DR. CHAPMAN, and DR. DAO directed and
12 caused Medicare to be billed for Respiratory Treatments that
13 did not occur, that did not occur under the respective
14 doctor's supervision, and that did not occur in the
15 respective doctor's medical offices.

16 18. At the time Dr. Lessler, DR. RIVKIN, Dr. Hepner, Dr.
17 Fu, DR. SARSHAD, Dr. DeBerry, DR. CHAPMAN, DR. DAO, Madrid,
18 Raichik, Fogelman, and Thrash made the false statements and
19 caused them to be made, concealed and omitted material
20 information and caused such information to be concealed and
21 omitted, and caused, aided and abetted, and engaged in the
22 fraudulent acts, practices, and devices set forth above, they
23 knew that said statements were false, that material information
24 was concealed and omitted, and that the subject acts, practices,
25 and devises were fraudulent, unlawful, and deceptive. In
26 particular, Dr. Lessler, DR. RIVKIN, Dr. Hepner, Dr. Fu, DR.
27 SARSHAD, Dr. DeBerry, DR. CHAPMAN, DR. DAO, Madrid, Raichik,
28 Fogelman, and Thrash knew the following:

1 a. that Dr. Lessler, DR. RIVKIN, Dr. Hepner, Dr. Fu,
2 DR. SARSHAD, Dr. DeBerry, DR. CHAPMAN, and DR. DAO were
3 paying illegal kickbacks to Madrid, Raichik, Fogelman, and
4 Thrash to recruit elderly, infirm, and mentally ill
5 residents of B&Cs for Respiratory Treatments;

6 b. that Madrid, Raichik, and Fogelman were paying
7 illegal kickbacks to the owners and administrators of the
8 B&Cs for referring their residents for Respiratory
9 Treatments, and causing illegal kickbacks to be given to the
10 B&C residents to undergo the Respiratory Treatments;

11 c. that Dr. Lessler, DR. RIVKIN, Dr. Hepner, Dr. Fu,
12 DR. SARSHAD, Dr. DeBerry, DR. CHAPMAN, and DR. DAO were
13 billing Medicare for Respiratory Treatments that were
14 neither provided, nor directly supervised;

15 d. that the Respiratory Treatments being billed to
16 Medicare were not being provided in the respective medical
17 offices of Dr. Lessler, DR. RIVKIN, Dr. Hepner, Dr. Fu, DR.
18 SARSHAD, Dr. DeBerry, DR. CHAPMAN, and DR. DAO;

19 e. that Medicare does not pay for the Respiratory
20 Treatments if such treatments are a result of the payment of
21 an illegal kickback;

22 f. that Medicare does not pay for the Respiratory
23 Treatments if such treatments are not provided and directly
24 supervised by a physician;

25 g. that Medicare does not pay for the Respiratory
26 Treatments if such treatments are performed on patients at
27 B&Cs; and

28 / / /

1 h. that Medicare does not pay for the Respiratory
2 Treatments if such treatments are not provided.

3 19. In carrying out the scheme, acting with intent to
4 defraud and deceive, Dr. Lessler, DR. RIVKIN, Dr. Hepner, Dr. Fu,
5 DR. SARSHAD, Dr. DeBerry, DR. CHAPMAN, DR. DAO, Madrid, Raichik,
6 Fogelman, and Thrash concealed and failed to disclose to Medicare
7 the true facts about their fraudulent business practices
8 regarding the delivery of and payment for the Respiratory
9 Treatments. Such concealed and omitted facts were material in
10 that, had Medicare known the true facts, it would not have paid
11 for the Respiratory Treatments.

12 C. RESULTS OF THE FRAUDULENT SCHEME

13 20. By devising, executing, and participating in the
14 fraudulent scheme, Dr. Lessler, DR. RIVKIN, Dr. Hepner, Dr. Fu,
15 DR. SARSHAD, Dr. DeBerry, DR. CHAPMAN, DR. DAO, Madrid, Raichik,
16 Fogelman, and Thrash caused losses to Medicare of approximately
17 \$11,643,700.

18 D. EXECUTION OF THE FRAUDULENT SCHEME

19 21. On or about the dates set forth below, in Orange County
20 and Los Angeles County, within the Central District of
21 California, Dr. Lessler, DR. RIVKIN, Dr. Hepner, Dr. Fu, DR.
22 SARSHAD, Dr. DeBerry, DR. CHAPMAN, DR. DAO, Madrid, Raichik,
23 Fogelman, and Thrash, for the purpose of executing the above-
24 described scheme to defraud and attempting to do so, caused the
25 following claims to be submitted to and processed by Medicare in
26 the following amounts:
27
28

Count	Defendant (Doctor/ Marketer)	Patient Initials	Date	Amount	Claim Number
2	Lessler/ Madrid	GP	10/15/03	\$50	551103293023070
3	Lessler/ Madrid	JA	10/15/03	\$50	551103293076980
4	Lessler/ Madrid	RD	10/15/03	\$50	551103293077280
5	Lessler/ Madrid	BD	10/15/03	\$50	551103293077030
6	Lessler/ Madrid	RG	10/15/03	\$50	551103293022870
7	Lessler/ Madrid	RC	3/27/03	\$50	551103091173410
8	Lessler/ Madrid	RC	5/26/03	\$50	551103153061250
9	Lessler/ Madrid	DB	3/7/04	\$50	551104077091930
10	Lessler/ Madrid	MG	12/31/02	\$50	551103007401330
11	Lessler/ Madrid	JB	3/8/04	\$50	551104077048230
12	RIVKIN/ Thrash	RL	9/1/03	\$50	551103252231180
13	RIVKIN/ Thrash	PB	9/1/03	\$50	551103252230480
14	RIVKIN/ Thrash	GK	9/1/03	\$50	551103252230680
15	RIVKIN/ Thrash	SS	9/1/03	\$50	551103252231590
16	RIVKIN/ Thrash	EK	9/1/03	\$50	551103252230950
17	RIVKIN/ Thrash	RL	9/3/03	\$50	551103252231200
18	RIVKIN/ Thrash	DD	6/26/03	\$50	551103181177830
19	RIVKIN/ Thrash	YD	6/16/03	\$50	551103174150240

Count	Defendant (Doctor/ Marketer)	Patient Initials	Date	Amount	Claim Number
20	RIVKIN/ Thrash	FN	5/12/03	\$50	551103139134780
21	RIVKIN/ Thrash	GP	9/15/03	\$50	551103266026200
22	Hepner/ Raichik Fogelman	PB	8/12/04	\$50	551104238357850
23	Hepner/ Raichik Fogelman	JF	8/12/04	\$50	551104238357890
24	Hepner/ Raichik Fogelman	DM	7/28/04	\$50	551104224288360
25	Hepner/ Raichik Fogelman	KJ	7/28/04	\$50	551104224288200
26	Hepner/ Raichik Fogelman	BC	7/28/04	\$50	551104224287760
27	Hepner/ Raichik Fogelman	PB	9/5/03	\$50	551103252227350
28	Hepner/ Raichik Fogelman	RD	7/9/03	\$50	551103195044540
29	Hepner/ Madrid	SF	9/12/03	\$50	551103258055480
30	Hepner/ Raichik Fogelman	KJ	12/2/04	\$50	551104342067290
31	Hepner/ Madrid	JK	7/31/03	\$50	551103217168980
32	Fu/ Madrid Raichik Fogelman	BB	10/18/02	\$50	551102294063140
33	Fu/ Madrid Raichik Fogelman	PE	10/18/02	\$50	551102294063120

Count	Defendant (Doctor/ Marketer)	Patient Initials	Date	Amount	Claim Number
34	Fu/ Madrid Raichik Fogelman	XB	10/18/02	\$50	551102294062930
35	Fu/ Madrid Raichik Fogelman	RM	10/16/02	\$50	551102294063090
36	Fu/ Madrid Raichik Fogelman	JF	11/5/02	\$50	551102315047390
37	Fu/ Madrid	RB	3/31/03	\$50	551103097128500
38	Fu/ Raichik Fogelman	CB	3/21/03	\$50	55110308310160
39	Fu/ Raichik Fogelman	CB	3/25/03	\$50	551103090163750
40	Fu/ Raichik Fogelman	GG	1/7/03	\$50	551103013185690
41	DeBerry/ Raichik Fogelman	CB	1/3/03	\$50	551103006117080
42	DeBerry/ Raichik Fogelman	CB	1/9/03	\$50	551103006117080
43	DeBerry/ Raichik Fogelman	SR	1/4/03	\$50	551103007191620
44	DeBerry/ Raichik Fogelman	SR	2/7/03	\$50	551103059046310
45	DeBerry/ Raichik Fogelman	RS	12/27/02	\$50	551102364183170

Count	Defendant (Doctor/ Marketer)	Patient Initials	Date	Amount	Claim Number
46	DeBerry/ Raichik Fogelman	RS	12/27/02	\$50	551102364183180
47	DeBerry/ Thrash	WH	4/18/03	\$50	551103111110520
48	DeBerry/ Thrash	JF	2/10/03	\$50	551103049154090
49	DeBerry/ Thrash	JW	1/10/03	\$50	551103030345590
50	CHAPMAN/ Madrid	WH	12/29/03	\$50	551104007107460
51	CHAPMAN/ Madrid	JW	12/29/03	\$50	551104007107330
52	CHAPMAN/ Madrid	HA	12/29/03	\$50	551104007107540
53	CHAPMAN/ Raichik Fogelman	JN	12/29/03	\$50	551104005024090
54	CHAPMAN/ Raichik Fogelman	KD	12/29/03	\$50	551104005024070
55	CHAPMAN/ Madrid Raichik Fogelman	MG	6/27/03	\$50	551103182184110
56	CHAPMAN/ Madrid Raichik Fogelman	AC	4/8/03	\$50	551103104135930
57	CHAPMAN/ Madrid Raichik Fogelman	JS	3/31/03	\$50	551103097329340
58	CHAPMAN/ Raichik Fogelman	JT	4/22/03	\$50	551103118138070
59	CHAPMAN/ Raichik Fogelman	FD	6/20/03	\$50	551103174151620

Count	Defendant (Doctor/ Marketer)	Patient Initials	Date	Amount	Claim Number
60	DAO/ Raichik Fogelman	PR	9/22/03	\$50	540203281231090
61	DAO/ Raichik Fogelman	PR	9/24/03	\$50	540203281231110
62	DAO/ Raichik Fogelman	VR	9/25/03	\$50	540203281230900
63	DAO/ Raichik Fogelman	VR	10/3/03	\$50	540203281230940
64	DAO/ Raichik Fogelman	CS	9/22/03	\$50	540203281230960
65	DAO/ Raichik Fogelman	CS	10/10/03	\$50	540203287091910
66	DAO/ Madrid	RB	11/26/03	\$50	540203336090120
67	SARSHAD/ Thrash	LK	3/8/04	\$50	551104068066140
68	SARSHAD/ Thrash	SM	9/29/03	\$50	551103279017250

All in violation of Title 18, United States Code, Sections 1347
and 2.

COUNTS SIXTY-NINE THROUGH SEVENTY-ONE

[18 U.S.C. §§ 1341, 2]

22. Paragraphs one through nine of this Indictment are incorporated herein by this reference.

A. THE FRAUDULENT SCHEME

23. Beginning in or around 2003, and continuing until in or around 2005, in Orange County and Los Angeles County, within the Central District of California, and elsewhere, DR. RIVKIN, together with others known and unknown to the Grand Jury, aiding and abetting each other, knowingly devised, executed, and participated in a scheme to defraud and to obtain money from Medicare by means of materially false and fraudulent pretenses, representations, and promises.

B. MEANS TO ACCOMPLICE THE FRAUDULENT SCHEME

24. The means to accomplice the fraudulent scheme are set forth in paragraphs 11 and 16 through 19, which paragraphs are incorporated herein by this reference.

C. USE OF THE UNITED STATES MAIL TO EXECUTE THE SCHEME

25. On or about the dates set forth below, in Orange County and Los Angeles County, within the Central District of California, DR. RIVKIN, for the purpose of executing and attempting to execute the above-described scheme to defraud, caused to be placed, and aided and abetted the placement in an authorized depository for mail matter, to be sent and delivered by the United States Postal Service, the following letters and other materials:

/ / /

Count	Date	Addressee	Item
69	8/23/04	Alexander Z. Rivkin MD	Medicare check relating to Claim No. 551104224287040 for patient RC
70	2/16/05	Alexander Z. Rivkin MD	Medicare check relating to Claim No. 551104351079880 for patient AL
71	2/16/05	Alexander Z. Rivkin MD	Medicare check relating to Claim No. 551180503506590 for patient FW

COUNT SEVENTY-TWO THROUGH SEVENTY-FIVE

[18 U.S.C. §§ 1343, 2]

26. Paragraphs one through nine of this Indictment are incorporated herein by this reference.

A. THE FRAUDULENT SCHEME

27. Beginning in or around 2002, and continuing until in or around 2006, in Orange County and Los Angeles County, within the Central District of California, and elsewhere, DR. CHAPMAN, DR. DAO, and DR. SARSHAD, together with others known and unknown to the Grand Jury, aiding and abetting each other, knowingly devised, executed, and participated in a scheme to defraud and to obtain money from Medicare by means of materially false and fraudulent pretenses, representations, and promises.

B. MEANS TO ACCOMPLICE THE FRAUDULENT SCHEME

28. The means to accomplice the fraudulent scheme are set forth in paragraphs 11 and 16 through 19, which paragraphs are incorporated herein by this reference.

C. USE OF WIRES TO EXECUTE THE SCHEME

29. On or about the dates set forth below, in Orange County and Los Angeles County, in the Central District of California and elsewhere, defendant DR. CHAPMAN, DR. DAO, and DR. SARSHAD, for the purpose of executing the above-described scheme to defraud and attempting to do so, caused, and aided and abetted the transmission of the following by means of wire:

<u>COUNT</u>	<u>DATE</u>	<u>ITEM WIRED</u>
72	2/13/04	Electronic Funds Transfer sent from Medicare in New York to DR. CHAPMAN in California, relating to Claim No. 551104033034630 for patient BH

1 73 3/8/04 Electronic Funds Transfer sent from
2 Medicare in New York to DR. DAO in
3 California, relating to Claim No.
4 540204055067850 for patient AA
5
6 74 3/29/04 Electronic Funds Transfer sent from
7 Medicare in New York to DR. DAO in
8 California, relating to Claim No.
9 540204076073100 for patient VR
10
11 75 3/1/05 Electronic Funds Transfer sent from
12 Medicare in New York to DR. SARSHAD in
13 California, relating to Claim No.
14 551805056142850 for patient LJ
15

16 A TRUE BILL

17 |S|

18 _____
19 Foreperson

20 THOMAS P. O'BRIEN
21 United States Attorney

22 CHRISTINE C. EWELL
23 Assistant United States Attorney
24 Chief, Criminal Division

25 

26 ROBB C. ADKINS
27 Assistant United States Attorney
28 Chief, Santa Ana Branch Office

JEANNIE M. JOSEPH 
Assistant United States Attorney